

Remarks

In the Office Action, the Examiner restricted claims 1 - 40 as a combination and subcombination having four groups of claims. Specifically, group I includes the combination claims 1 - 9 and 17 - 19, group II includes the subcombination claims 10 - 16, 20 - 26, and 35 to 40, group III includes the subcombination claims 27 - 31, and group IV includes the subcombination claims 32 - 34. The Applicant elects the group I set of claims and respectfully traverses the Examiner's restriction.

The Examiner has stated that "the combination as claimed does not require the particulars of the subcombination as claimed." I assume that the Examiner means that the alleged subcombination is not required for patentability as stated in M.P.E.P. § 806.05(d). The Applicant wholeheartedly agrees that the alleged combination and subcombinations are patentable, as the Examiner has already indicated in his previous examination of the claims. However, the Examiner has failed to show that the subcombination can be shown to have utility either by itself or in another materially different combination as required. See M.P.E.P. § 806.05(c). Furthermore, restriction is only proper when there would be a serious burden if restriction were not required, as evidenced by separate classification, status, or field of search. See M.P.E.P. §§ 803, 806.05(c), and 808.02. As mentioned, the Examiner has already examined the present application and allowed claims from each of the alleged combination and subcombination groups. Thus, the burden on the Examiner must not have been particularly serious. The Examiner must also provide reasons and/or examples to support conclusions for restriction. See M.P.E.P. § 803. The Examiner has not even met his requirements for a restriction under M.P.E.P. § 806.05(c), let alone provided reasons or examples to support the restriction according to M.P.E.P. § 803. Restriction, therefore, is not proper and the Applicant respectfully requests withdrawal of the Examiner's restriction.

Conclusion

Applicants believe no fees are due in this matter. Should any issues remain, the Examiner is encouraged to telephone the undersigned attorney.

Respectfully submitted,

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